

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

LAKYSHA SAGER, f.k.a. PAYNE,	:	APPEAL NO. C-110108
	:	TRIAL NO. DR-0702068
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DANTE PAYNE,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court in accordance with S.Ct.R.Rep.Op. 3(A), App.R.11.1(E), and Loc.R. 11.1.1.

Plaintiff-appellant Lakysa Sager appeals from a post-decree decision of the Hamilton County Domestic Relations Court that adopted a magistrate's decision ordering her to pay child support.

In her first assignment of error, Sager argues that the trial court erred in imputing income to her when calculating her child-support obligation because she allegedly receives means-tested public assistance benefits, and the trial court did not find that not imputing income to her would be unjust, inappropriate, and not in the best interest of her children. See R.C. 3119.05(I). However, Sager failed to raise this issue with particularity in her written objections to the magistrate's decision; thus, she has waived all but plain error. Civ.R. 53(D)(3)(b). See, also, *In re Jones*, 1st Dist. Nos. C-090497, C-090498, and C-090499, 2010-Ohio-3994, ¶¶31-32 (holding that

under the nearly identical Juv.R. 40(D)(3)(b), if a party fails to raise an issue in his or her written objections to a magistrate's decision, he or she waives that issue on appeal even if the issue is raised at a hearing on the written objections). Finding no plain error, we overrule Sager's first assignment of error.

In her second assignment of error, Sager contends that the trial court erred in imputing income to her without taking into account the criteria listed under R.C. 3119.01(C)(11). Setting the appropriate amount of imputed income is a question of fact for the trial court, and we will not second guess the court's determination absent an abuse of discretion. *Cwik v. Cwik*, 1st Dist. No C-090843, 2011-Ohio-463, ¶94. Here, the trial court found that Sager was underemployed and could have been working, and these findings were supported by evidence in the record of her prior employment experience, her education, and her lack of disability. Because the court did not act unreasonably, arbitrarily, or unconscionably in imputing income to Sager, we overrule her second assignment of error. See *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 450 N.E.2d 1140.

Therefore, the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., CUNNINGHAM and FISCHER, JJ.

To the Clerk:

Enter upon the Journal of the Court on October 21, 2011

per order of the Court _____
Presiding Judge